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January 24, 2008

Memphis Charter Commission
City Hall
125 N. Main
Memphis, TN 38103

VIA HAND DELIVERY

RE: Recommendations for Memphis Charter Commission

Dear Charter Commissioners,

As stated in my presentation before you, I propose that the Memphis City Charter be amended to provide for a special election within sixty (60) days of the resignation of the Mayor. The public deserves the right to elect their Mayor and not be the victim of skullduggery or backroom deals to circumvent the democratic process.

As you know, in 1982, Mayor Wyeth Chandler resigned, and a court lawsuit was required in order for the voters to elect their choice of a replacement Mayor that November. I have attached a copy of the Chancery Court Order Allowing Intervention and Compelling Municipal Mayoral Election, in the matter of The Citizens of the City of Memphis and the State of Tennessee, et al, vs. Shelby County Election Commission, et al, No. 89592 R.D. as entered on October 20, 1982. In that matter the Chancery Court ordered the Mayoral election to be held on November 2, 1982 pursuant to the expedited ruling by the Tennessee Supreme Court on October 7, 1992 (also attached).

In that ruling, the Tennessee Supreme Court held that “[b]ecause of the strong policy of the law in allowing the people to choose their elected officials we believe that the election should be held, ...”. The Tennessee Supreme Court further stated that “It is our opinion that the majority of jurisdictions hold that the law relating to filling vacancies in elective office should be construed so as to give the people the opportunity to choose at the earliest possible time the successor to an official they have previously chosen...”

Under the City Charter’s Home Rule Amendments, Ordinance No. 1852, Section 4, Mayor, it provides:

In the case of the death, resignation, inability for any reason to serve, or recall of the Mayor or his removal from the City, his office shall be occupied by the Chairman of the Council for a period not exceeding twenty (20) calendar days, during which period the Council shall elect a successor to the Mayor from among

qualified persons not members of the Council at the time of such elections. Such elected person shall take office as Mayor immediately on election and shall hold office until his successor is elected or qualified, which office shall thereupon be filled in the same manner as heretofore provided for vacancies on the Council. In the event the Council shall fail to act within the twenty (20) day period, the Director of Administration [Chief Administrative Officer] shall fill said office until such time as the members of the Council shall have elected a successor or until the next general or municipal election.

In Section 1, of the Home Rule Amendments, Ordinance No. 1852, it provides in pertinent part that:

A successor [for a vacant Councilmember's seat] shall be elected to fill out the remainder of the term of the Councilman whose seat was vacated in the same manner as now provided for filling of vacancies on the Board of Commissioners, except that such special municipal election shall be held on the date of the next regular August or November election.

Our country was founded on the democratic principles that the people vote to elect their leaders. We all should know well that our government is not a monarchy which was rejected in our American Revolution beginning with the Boston Tea Party in 1773. Nor, is it an oligarchy, defined in Merriam-Webster's online dictionary as "a government by the few", "a government in which a small group exercises control especially for corrupt and selfish purposes". It is a democracy, and as explained by the Tennessee Supreme Court, the law relating to filling vacancies in elective office should give the people the opportunity to choose at the earliest possible time the successor to an official they have previously chosen.

Moreover, we have seen problems with this process in the past as stated by a local reporter with the Memphis Flyer online:

John Branston responds: I remember the political events of 1982 and 1983 well and have written about them at length in my book *Rowdy Memphis*. After Mayor Wyeth Chandler resigned in 1982, there were attempts to make businessman Avron Fogelman mayor, then city councilman Oscar Edmonds. After these failed, Councilman J. O. Patterson Jr. became interim mayor, followed by chief administrative officer Wallace Madewell. Attorney Dan Norwood filed a lawsuit "on behalf of the citizens of Memphis," which, after some 11th-hour dramatics and a Tennessee Supreme Court ruling, forced an election for mayor.

See [<http://www.memphisflyer.com/memphis/Content?oid=11885>].

And, due to the significant powers of the Mayor to execute contracts, it is clear that an election should be held as soon as possible when a vacancy arises in order to put someone in office that the people have chosen as their leader, who is accountable to them, and whom they trust. Even during the brief period that the City's Chief Administrative Officer was interim

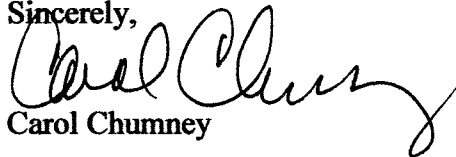
Mayor in 1982, he executed a 52 year lease contract regarding Beale Street and Elkington & Keltner Properties (now Performa), which the citizens are still trying to undo years later in 2008. See The Memphis Commercial Appeal, 12/09/07, Beale entertainment area throbs with life, but behind the scenes there's discord. [<http://www.commercialappeal.com/news/2007/dec/09/blues-on-beale>].

Since there is not an August or November election every year, it is conceivable that some who are more interested in keeping control in the hands of a few could devise a scheme to attempt to thwart the will of the people with the resignation of the Mayor when there is not an August or November election for *two years*! This would circumvent the right of the people to elect their own leader, and could result in backroom deals and abuse of the electoral process.

With the many indictments and investigations of late, including those involving the local governmental appointment process, a quick election when a Mayor resigns will best protect the public interest to ensure that the new Mayor is not tainted with allegations of a backroom deal. There is already open speculation in the news and media of such a deal in the last Mayoral election. See [<http://www.wreg.com/global/story.asp?s=7112348&ClientType=Printable>]. Whether this is true or not, the public speculation of a backroom deal further demonstrates the need for the Charter Commission to put this issue on the ballot.

For the foregoing, I respectfully recommend that the Memphis Charter Commission amend the City Charter to require a special election within sixty (60) days of the resignation of the Mayor of Memphis.

Sincerely,

A handwritten signature in black ink, appearing to read "Carol Chumney", written in a cursive style.

Carol Chumney